98-84334-19

Merrick, George G.

What is the law?

Denver, Colo.

1885

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Merrick, George G.
What is the law? An inquiry into the history and effect of the several acts of Congress relative to silver coinage. By George G. Merrick. Pub. by the Denver Chamber of Commerce and Board of Trade. Denver, Colo., Times Printing Company, 1885.
16 p. 24 cm.

No. 2 of a vol. of pamphlets.

1. Silver question. I. Title.

uc-main 821110 821110 NNC Only Fil
A000317 /KEN 82-B36112
irw n b 06-29372

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BY GEORGE G. MERRICK.

1265

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Compliments of
Geo. Sutton

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INTENTIONAL SECOND EXPOSURE

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Preface.

The following review of the legislation by congress upon silver coinage, is not intended to be such an exhaustive argument upon the subject as would be made before the court of last resort, but no important fact has been omitted, the knowledge of which seemed necessary in order to properly and intelligently answer the inquiry, What is the Law?

The effort has been to condense rather than to enlarge, to present facts rather than arguments, and where argument is indulged in it is for the purpose of calling attention to the irresistible effects and operations of the special enactments under consideration.

It may be that to meet the rapid advance of the nation in numbers and in accumulative wealth, its commercial, mercantile and productive industries will, in the near future, need some more arbitrary standard of value than that of silver and gold coin, but so long as the present United States constitution exists, so long will silver and gold coins, co-ordinately, each with the other, be the constitutional standard of value, over which congress has no authority whatsoever, further than to fix at long intervals of time the lawful ratio between the two metals, and the entirely subordinate regulation of the fineness, weight and size of the several coins to be issued by the mint.

The proposed appeal to the supreme court would definitely settle and determine—

The constitutional powers of congress in relation to the coinage of the mints;

The constitutional right of the people to free and unlimited coinage of silver, the same as gold.

It would take the subject out of congress; it would enlighten the people as to their rights, instruct members of congress as to their duties; and

It would settle the coinage question upon constitutional authority, relieve the nation from the uncertainty and doubt which now embarrasses and prostrates its business, its enterprise and productive capacity.

No merely local or selfish interests are to be benefited by a judicial determination of the coinage question. It is as broad as the constitution. Every citizen should desire the right to prevail. And to the people in the exercise of their constitutional rights I dedicate this pamphlet.

GEO. G. MERRICK.

What is the Law?

Silver being one of the constitutional money metals of the United States, under the powers reserved to it by that instrument, it is pertinent to inquire into the proper and legal effect of the acts of congress of February 12, 1873 and June 1874, by which silver was, in the popular phrase, "demonetized." In order that there shall be no misapprehension in relation to the meaning of words used, I will define a statute: "A thing having the form of law, an enactment, expressing the will of a legislative body, but which may, or may not, be within the scope of their authority."

From 1792 to the taking effect of the statute of February 12, 1873, the mints of the United States had been open to the free and unlimited coinage of silver and gold in such denomination of coin, of the weight and fineness provided by law, as the owner of the metal desired, and I fail to find anywhere any authority conferred upon congress to limit, or in any manner restrict, the right of the people to take their gold, or their silver, to the mints owned by them for coinage. While, on the other hand, the undisturbed and peaceful enjoyment of this reserved power of the Government in their behalf for more than three generations has become a vested right by user, and is beyond the power of congress to take away or in any manner impair, even though done by observance of all proper legislative forms, and free from the taint of misrepresentation and fraud in its passage through both houses, or either of them.

All bureaus, departments or branches of the governmental machinery are solely for the use, benefit and welfare of the people. The postoffice receives, transports and delivers all letters and other matter under uniform regulations in relation thereto—anything less than that would not be endured by the people. In its origin and operation for 81 years the mints were like the postoffice, whose whole provisions were designed for the use of the people, for every one who had gold or silver metal and wished to have it converted into coin, the mints of the people were open and prepared to do the work, and no bill ever passed congress in which that right was in words attempted to be taken away or restricted.

Hence, it follows that if congress exceeded its proper and constitutional authority, whereby the legislation of 1873–4 was

enacted, or if such enactments were secured by suppression or fraud then they become statutes only, and are absolutely null, inoperative and void.

Congress has no duty to perform in relation to the mint other than to provide that it shall be ready to coin into lawful money, of such size and value as the people may desire, all of the constitutional money metals in their possession, with no other limitations or restrictions than are necessary to secure accuracy and uniformity of product.

THE CONSTITUTION AND COINAGE ACT OF 1792, 1837, 1853 AND 1873.

The constitutional powers of congress in relation to the coins of the nations are as follows:

Sec. 8, Art. 6—To coin money, regulate the value thereof and of foreign coins;

Sec. 8, Art. 7—To provide for the punishment of counterfeiting the securities and current coin of the United States;

Sec. 10, Art. 1—No state shall coin money; emit bills of credit, make anything but gold and silver coin a tender in payment of debts.

Many of the signers of this constitution were members of the congress which, in April 1792, passed an "Act establishing a mint and regulating the coins of the United States," and we may safely assume that they knew, and in this act fairly represent the intention and purposes of the mint so established. The sections 1 to 8 inclusive deal with officials, duties, salaries and the routine of the mint.

Sec. 9, after providing for the coinage of eagles, half-eagles and quarter-eagles of gold, prescribing weight and alloy, further says: "Dollars or units, each to be of the value of a Spanish milled dollar, as the same is now current, and to contain three hundred and seventy-one grains and four-sixteenth parts of a grain of pure, or four hundred and sixteen grains of standard silver," with provision for coinage of the half dollar, quarter and dime, of exact proportionate value.

Sec. 14—"That it shall be lawful for any person or persons to bring to the said mint gold and silver bullion in order to their being coined; and that the bullion so brought shall be there assayed and coined as speedily as may be after receipt thereof, and that free of expense to the person or persons by whom the same shall have been brought." The remainder of this section relates to delivery of coin to depositors of bullion, exchange of coin for bullion and the duty of the Secretary of the Treasury in the premises.

Sec. 15—"That the bullion which shall be brought as aforesaid to the mint to be coined shall be coined, and the equivalent thereof in coins rendered if demanded, in the order in which the said bullion shall have been brought or delivered, giving priority according to priority of delivery only and without preference to any person or persons." The remainder of the section provides for penalties and enforcement of them in case of violation of these provisions.

These unmistakable declarations of the objects and purposes of the United States mint, made by the fathers of the constitution and of the law, are the sole lights needed to guide us to correct conclusions touching more recent legislation upon silver coinage. The declaration of the right of the people owning silver or gold bullion to deposit the same at the mints for coinage was affirmed in all legislation upon that subject until the passage of the act of February 12, 1873, with some unimportant limitations. Such as the act of April 2, 1837, limits the amount to "not less value than one hundred dollars, or any bullion so base as to be unsuitable for the operations of the mint." So with the act of February 10, 1853, in which a half-dollar, quarter-dollar and dime of lighter weight than before authorized were provided for coinage on behalf of the government. It may fairly be doubted, if the language of the 5th section can be construed to deprive owners of bullion from receiving coins of standard weight for their deposit of bullion; the section is as follows: Sec. 5—"That no deposit for coinage into *the* half-dollar, quarter-dollar, dime and half-dime shall be received, other than those made by the Treasurer of the Mint as herein authorized, and upon account of the United States."

The act contains no repealing clause, and it is evident that the word *the* before half-dollar, etc., refers only to the coins set out and described in the first section of said act; not to the half-dollar, quarter-dollar and dime as provided for by act of 1792 and 1837. Be that as it may, there is no restriction to the deposit of silver bullion for coinage, except as to the light weight coins, which were to be exclusively for the use of the government.

Section 6 of this act of 1853 provides for a charge of one-half of one per cent in addition to the charges for assaying and refining—made upon all bullion deposited.

No further changes were carried through congress affecting silver coinage until the coinage act of 1873 was passed, in which we find startling departures from the usages and laws in operation from 1792 down to that date. The silver dollar is supposed to be prohibited; the gold dollar established as "the unit of value;" the trade dollar authorized and deposits of silver bullion, except for coinage into trade dollars, prohibited, and the legal tender of the same declared limited to five

dollars; the charge for converting standard gold bullion into coin reduced to one-fifth of one per centum, while the charge for converting silver bullion into coin is to be "fixed from time to time by the director, with the concurrence of the Secretary of the Treasury." Section 67 contains a sweeping repealing clause of all prior acts inconsistent with the provisions of this one. But it is the 17th section which was relied upon to prevent the coinage of the dollar of 412½ grains standard silver, on either government or private account. Section 17, (R. S. 3516), reads as follows: "That no coins, either of gold, silver or minor coinage shall hereafter be issued from the mint other than those of the denominations, standards and weights herein set forth."

It will be observed that this section refers to coins to be issued or fabricated at the mint, leaving still in circulation, with declared full legal tender, all the silver dollars coined under the operation of the laws previously enacted. But when the revised statutes of the United States were passed in bulk, in June, 1874, there was found (Sec. 3586) as follows: "The silver coins of the United States shall be a legal tender at their nominal value for any amount not exceeding *five dollars* in any one payment." Evidently this section was supposed to be all that was necessary to effectually deprive the people of the right of free coinage of their silver bullion, because in no sense is this section a revision of any existing section or provision of the law in effect prior to June, 1874, and became incorporated in the revised statutes, by trick or fraud, while passing through the hands of the committee of revision. This committee of revision could not do the work themselves; they must trust it to a large number of clerks and writers, relying upon their statements that the work was correctly done; but in the doing a great wrong upon the rights of the people was supposed to be finally accomplished, as the fit end to the coinage act of 1873.

WHAT IS THE STANDARD VALUE?

April 17, 1876, congress passed an act in relation to silver coin, as follows:

Sec. 2—That the Secretary of the Treasury is hereby directed to issue silver coins of the United States of the denomination of ten, twenty, twenty-five and fifty cents of *standard value*, in redemption of an equal amount of fractional currency, etc. Search the 67 sections of the coinage act of 1873 as carefully as you will, no light can be obtained upon the question. Section 13 of act of 1873 (R. S. 3514) provides for a standard of fineness of the bullion to be coined: "That the standard for both gold and silver coins of the United States shall be such that of one thousand parts by weight nine hundred shall be of pure metal

and one hundred of alloy." The 14th section (R. S. 3511) says that the gold coins of the United States shall be a one dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be *the unit of value*. Nowhere is there any "standard of value" recognized as attaching to the silver coins as authorized and limited in that statute. Nor can the coins set out in this act of 1876 be the coins as prescribed in the act of 1853, for the reason that nowhere in that act are its coins referred to or recognized as of standard value; therefore we must go back to the act of 1837 before we find the half-dollar, quarter and dime of standard value. The act of 1873 in no way attempted to change the ratio between gold and silver established by the act of 1837. The coinage act of 1873 nowhere provides for the coinage of a twenty cent piece; this piece was authorized by the act of March 3, 1875, no other coins being referred to in the act. By the 3d section of the act of July 22, 1876, the coins set out in act of April 17 of that year are referred to as subsidiary silver coin. Now, if they are *subsidiary* they cannot be *standard*, except in standard fineness of the metal of which coined—in no sense of "standard value," unless it be, *that every silver or gold coin bearing the impress of the United States Mint becomes, upon that fact, of standard value and a full legal tender.*

The Joint Resolution No. 17 of July 22, 1876, Sec. 2, was intended to prevent the further coinage of silver for the owners of silver bullion. It is as follows: "That the trade dollar shall not hereafter be a legal tender, and the Secretary of the Treasury is hereby authorized to limit from time to time the coinage thereof to such an amount as he may deem sufficient to meet the *export* demand for the same."

THE BLAND BILL.

The Bland Bill or act of congress of February 28, 1878, is entitled "An act to authorize the coinage of the standard dollar and to restore its legal tender character."

Section 1—"That there shall be coined at the several mints of the United States silver dollars of the weight of 412½ grains Troy of standard silver, as provided in the act of January 18, 1837, on which shall be the devices and superscriptions provided by said act, which coins, together with all silver dollars heretofore coined by the United States, of like weight and fineness, shall be a legal tender, at their nominal value, for all debts and dues, public and private, except where otherwise expressly stipulated in the contract."

This section further provides for the purchase by the Secretary of the Treasury of silver bullion, to be converted into these dollars, of two to four million dollars worth per month,

on account of the government. The act is silent upon how the Secretary of the Treasury shall pay out the dollars to be coined, but, in its 3d section, says: "That any holder of the coin authorized by this act may deposit the same with the Treasurer, in sums not less than ten dollars, and receive therefor certificates of not less than ten dollars each."

The effect of this legislation upon the coinage question seems to have been entirely overlooked. The dollar of 412½ grains standard metal being fully restored as a coin to be issued by the mints. The trade dollar never having been a coin of and for the people of the United States, its coinage limited and its legal tender declared null and void by Joint Resolution No 17, July 26, 1876, leaving no silver dollar recognized, even in name, subsequent to that date and up to the taking effect of the Bland Bill.

It is plainly evident that the owners of silver bullion are entitled to take such bullion to the mints of the United States and have it coined into dollars, as provided by the act of 1837, specifically referred to, and that the provision that there shall be coined a certain amount, neither above or below a certain limit, on behalf of the government, in no wise interferes with or attempts to prohibit, the owners of bullion from exercising their right to demand, and to have their silver coined into dollars of required weight and fineness.

The reasons which caused the insertion of this unusual provision to purchase, and coin, silver dollars on government account are not hard to find nor difficult to understand. Congress had, on the 14th of January, 1875, passed a Resumption Bill, which provided that on the first day of January, 1879, all obligations of the government, including the greenbacks, should be paid in COIN on demand, and it was to provide such a reserve of coin in the treasury and among the people as would meet the supposed emergency of resumption of specie payment by the government; that the coinage of two to four million dollars of silver each month was rendered obligatory upon the Treasury Department.

This act to authorize the coinage of the standard silver dollar and to restore its legal tender character means just what its title recites. It is to authorize the coinage of the silver dollar. No other dollar has been known to the people, and if it does not repeal the trade dollar described in section 15 of the act of 1873 (R. S. 3513) it certainly adds the dollar of 1837 to the list of coins to be issued by the mints; hence, the 17th section (R. S. 3516) cannot apply to or exclude the dollar of 412½ grains.

This applies with equal force to the provisions of the 21st section, (R. S. 3520), which is as follows: "That any owner of silver bullion may deposit the same at any mint, to be formed into bars, or into dollars of the weight of 420 grains Troy, designated in this act as trade dollars, and no deposit of silver for other coinage shall be received." This act of 1878 authorizing the dollar as known and used from 1792 to 1873 recognizes also the right of the people to have their silver coined into those dollars. It is an act to authorize the coinage of the standard dollar, not to limit its coinage to a certain amount or number of them. It is to declare the legal tender restored to any extent which the people may possess of the described coins, not to limit such tender by limiting the coinage of them. It was to restore in its fullest sense as before the act of 1873 the rights of the people, the honor and dignity of the coin, and the integrity of congress in its legislation upon the mints and coins of the people. These were the purposes of the act of 1878, known as the Bland Bill; what else can its title, "An act to authorize the coinage of the standard silver dollar and to restore its legal tender character," mean? No word in the four sections of the act can by the widest stretch of the imagination be construed as inharmonious or in conflict with the title. The requirements upon the government to purchase and coin contains no direct or implied restriction upon the people, for, let it be always remembered, that it is the people's mints, over which congress has no other authority or duty than to provide that it shall be at all times ready to coin metal, silver or gold, into such shapes and sizes as public convenience may demand; that all these various statutes and acts have reference to, and which are to be interpreted liberally, in the interest of the people and not in any narrow or restricted sense.

The provision for issuing certificates to holders of the coin authorized by the act, the repeal of all acts and parts of acts inconsistent with the provisions of this act, point with *no uncertainty* as to the proper construction and interpretation of that portion of the first section of the act of 1878.

All restrictive sections of the Revised Statutes of 1874 are repealed or modified so as to comply with the requirements of the first section of act of 1878, which is that "*There shall be coined* at the several mints of the United States *silver dollars* of the weight of 412½ grains Troy of standard silver, as provided in the act of January 18, 1837. "The Revised Statutes, Sec. 3514, sets out what the standard for both silver and gold bullion shall be for mint purposes. The act itself sets out the exact weight of the coin to be fabricated, and described in the title as "standard dollars." There is no need of reference to the act of 1837 to ascertain what the weight or fineness of metal were to enter into the coins authorized by the act. Special reference is also

made to the section of the act of 1837, in which the device is described which shall be impressed upon such coin. In this view of the effect of the wording of the first section of the Bland bill what do the words "as provided in the act of January 18, 1837," properly mean, unless it be that the silver dollar as set out was to be coined by the mints under all the provisions of the act of January 18, 1837, which relate to the dollar of 412½ grains Troy of standard silver. The 14th section of which act says: "That gold and silver bullion brought to the mint for coinage shall be received and coined by the proper officers, for the benefit of the depositors." *There is no conflict* in the law; all acts or parts of acts inconsistent are repealed and the law as it was in force from 1837 to 1873 again restored and recognized as the only just, right or proper method of legislating in relation to the people's money.

No modern nation ever contemplates that its people can possess too much of the coined money issued from its mints. "Silver and gold together fill but scantily the measure of the money needs of the world, and they can only fill it upon the conditions that both are money in the fullest sense, and nothing is such money if it be restricted in its coinage or legal-tender functions."

LEGAL TENDER OF COIN MONEY.

The grant to congress of the power to "coin money and regulate its value" is silent upon the legal-tender proposition. Says Albert Gallatin, (in 1831), "As congress has no authority to make anything whatever a legal tender in payment of private debts, it necessarily follows that nothing but gold and silver coin can be made a legal tender for that purpose." Daniel Webster, the great authority upon and expounder of the constitution, says; "*Congress has no power granted to it in this respect, but to coin money and to regulate the value of foreign coins.*" The legal tender, therefore, the constitutional standard of value, is established and cannot be overthrown. I am certainly of opinion that gold and silver, at rates fixed by congress, constitute the legal standard of values in this country, and that neither *congress nor any state has authority to establish any other standard or to displace this.*" Much more might be quoted of opinions and the text of the common law, all in direct line, and fully support the great commoner, but will pass to more recent decisions.

Justice Clifford, in the legal-tender cases, says: "Very strong doubts are entertained whether an act of congress is absolutely necessary to constitute the gold and silver coins of the United States, fabricated and stamped as such by the proper executive officers of the mint, a legal tender in payment

of debts. *Constituted as such coins are by the constitution, the standard of value,* the better opinion would seem to be that *they become legal tender for that purpose, if minted of the required weight and fineness.*" In the same cases Justice Field says: "Money being a standard, its coins or pieces are necessarily a legal tender. The provisions in the different coinage acts, that the coins to be struck shall be such legal tender, are merely *declaratory of their effect* when offered in payment, and *are not necessary to give them that effect.*"

In the light of these opinions, it appears that the power of congress in relation to legal tender of coin money is confined to declarations only, and that such declarations are not necessary and do not confer upon coins of gold or silver, bearing the stamp of the United States Mint, any functions which they do not possess without it. It therefore follows that congress has no power to restrict such coins in their legal-tender functions. No reference or exception has been made to any coin bearing the impress of the United States Mint. All are alike coin, all alike possessed with the legal tender, the only condition being that they shall be of *the required weight and fineness.*

If the foregoing decisions are sound and the effect correctly stated, and there seems to be no other reasonable view to be taken, it follows that the half-dollar, quarter and dime of present coinage are a full legal-tender, at their nominal value, at the option of the debtor. Whatever their weight may be, they are coins of the United States, and possess the "required weight and fineness," duly certified, stamped and fabricated by the proper executive officer of the mint.

WAS THE COINAGE ACT OF 1873 WITHIN THE CONSTITUTIONAL POWER OF CONGRESS.

The constitutional powers of congress set out in relation to coinage are very brief: "To coin money and regulate the value thereof," and many have assumed that congress had full power to go to any extreme in legislation upon the management of the mints. If we bear in mind that this government is a Democratic republic, and that congress has *no implied authority whatever,* the difficulties of arriving at just conclusions will be very much simplified. We have seen that from 1792 till 1873 the congress of the United States had in the matter of laws relating to the mint, in each act, carefully set out, declared and guarded, the rights of the people in regard to their access to the mint with their money metal to be con-

verted into coin. But some time previous to 1873 a new light had dawned upon the congressional minority. On the 3d of July, 1864, congress had passed an "act to provide a national currency," better known as the National Bank Act. Great and valuable franchises were conferred upon these national banks, and it was due to this bank influence in and about congress, and the committee rooms, that the act of 1873 and the one necessary section in the revised statutes of 1874 were enacted. It may be argued that as the people are known only through their representatives in congress, that the people desired and approve the attempted demonetization of the silver dollar by the acts of 1873–4

It is a well known fact that the people of the United States when they desire to give expression to their wishes upon any important subject, make their declarations in their party platforms, or in public speeches and discussions upon the subject. No political party ever dared to incorporate into its platform even a hint at taking from silver its right of free and unlimited coinage, or its legal tender; no public speaker ever discussed from the platform and before an audience of voters any such proposition. The movement did not originate with the people, and it was so little understood that the President who signed the act of 1873 did not know that it in any way changed the law relative to the dollar of 412½ grains Troy of standard silver. While ignorance on the part of legislative and executive officers may not be pleaded in bar of the operation of proper enactments, the facts existing are sufficient to put us upon inquiry relative to the powers of congress over the subject matter of the mint and the coins to be issued from it.

Chief Justice Marshall, in passing upon the constitutional powers of congress, says: "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end which are not prohibited, but consist with the letter and spirit of the constitution are constitutional. Congress is not empowered by it to make all laws which may have relation to the powers conferred on the government, but such only as may be necessary and proper for carrying them into effect."

It is not difficult to apply this decision to the act of congress of 1873. The constitutional authority to coin money and regulate the value thereof was assumed to cover the whole matter of coinage—to coin, or not, as congress might from time to time by statute provide. Can any one claim that the prohibitory legislation of 1873–4 was necessary or proper to carry into effect the right and duty to coin money? No necessity existed for suppressing the dollar of 412½ grains standard silver, which had been established in 1792 and continued to be

the people's dollar even after this attack upon it; no reason was ever given why the coinage of that dollar should be prohibited, *except that it was worth three cents too much.*

We have seen the steady and continued usurpation of legislative enactment culminate in Joint Resolution No. 17, July 26, 1876, by which the coinage of any silver bullion for the owners of it, other than the government, was supposed to be effectually prohibited.

Is prohibitory legislation necessary and proper to carry into effect the duty of the mint to coin money for the people? For what other purpose is the Bureau of the Mint supported? Congress apparently assumes that the mints are something which belong exclusively to the government and not to the people. That congress, or the power back of the congress, has the monarchial plan of treating the mints of the nation as the private property of the government, to be run and managed in the interest of a ring or clique; to make money scarce, to harrass, to compel the people to sell their silver to the broker, to submit to all sorts of schemes by which charges and expenses may be piled up, accumulated and deducted from the value of their constitutional money metal. All these are the legitimate results following the usurpation of unconstitutional powers by the act of 1873, and as it is a well defined law principle that men intend the results of their actions, we are justified in asserting that such results were the objects and purposes of all legislation by congress upon the coinage of silver, from that of February 12, 1873, down to the passage of the Bland Bill.

The Question Answered.

As a proper answer to the question "What is the Law? it may be well to state, in as brief a manner as possible, what the facts, decisions and opinions previously quoted tell us is the law.

That a declaration by congress that coins fabricated at and issued to the people by the mint shall be a legal tender is not necessary.

That such coins are a legal tender without any declaratory action by congress.

That as congress cannot, by its enactments, give a legal tender quality to coins fabricated at and issued by the mints, so congress cannot take from or limit such coins in their legal tender functions.

A prime condition to a tender is the possession of the coin. How shall coin be obtained except through the mint?

Limiting or restricting the coinage is to destroy the legal tender of the metal so prohibited.

If congress can demonetize silver it can also demonetize gold.

If congress can demonetize either of the constitutional money metals of the people it can demonetize both.

If congress can restrict or limit the legal tender of silver coins it can also limit or restrict the legal tender of gold coins.

If congress can limit or restrict the coinage of silver it can limit or restrict the coinage of gold.

Congress possesses no power over silver that it does not equally possess over gold.

If congress possesses either of these several powers it can at will destroy both and all, the constitutional money of the people.

"The congress shall have power to coin money and regulate the value thereof."

"To Coin Money."—To provide a mint with its machinery and needful regulations to secure efficiency and certainty in its operations and product. This was done by the acts of 1792 and 1837.

"And regulate the value thereof."—To establish the weight of fine metal and alloy which shall enter into the standard metal out of which the several coins shall be minted. To define the weight of standard metal of which coins shall be made. To authorize the size of the several coins and the devices and mottoes which shall be put upon them by the mint. To establish by law the ratio between the two metals and to provide that the mint shall be at all times ready to coin all the constitutional money metals of the people which they may desire into the coins of prescribed weight and fineness

All these powers were exercised by the congress which passed the coinage acts of 1792 and 1837.

That so much of Section 14 of the coinage act of 1873 (Sec. 3511 of Revised Statutes), as attempts to displace silver from its co-ordinate position with gold as a standard of value, is unconstitutional.

That so much of Section 21 of the coinage act of 1873 (Sec. 3520, Revised Statutes) as attempts to limit the deposit of silver bullion by the people for coinage into trade dollars only, the declared purpose of such coin being for export and not for domestic use, is unconstitutional.

That so much of Section 3586, Revised Statutes, as attempts to limit the legal tender of silver coin, is unconstitutional.

None of the provisions of the several sections referred to are necessary and proper to carry into effect the constitutional

power and duty to "coin money and regulate the value thereof."

The Bland Bill or act of February 28, 1878, either revives all the provisions of act of January, 1837, which are necessary to restore the silver dollar to coinage as provided in that act, or the dollar of 412½ grains Troy of standard silver is added to the list of coins to be issued by the mint, and for which coins the deposits of silver bullion may be made, and which shall be coined and delivered to the depositors of such bullion without limit as to quantity or number of the dollars to be so coined and delivered.

The duty imposed upon the Treasury Department to purchase and coin a certain amount of silver bullion for government use can in no sense be construed as limiting the coinage of silver dollars to that amount.

The people, the owners of silver bullion, have the constitutional right to deliver their bullion to the mints of the United States and receive therefor coins of standard weight and fineness. Congress has no authority to impair or limit this right.

Gold and silver coins are "a constitutional currency, and the people have a right to demand it for their currency as long as the present constitution of the United States is permitted to exist."

THE REMEDY.

The test of the truth of this argument and the correctness of the conclusions as to the law, and its proper application, can be made by offering to the mint such an amount of fine silver (not less than one thousand ounces) as will secure the attention of the mint officials, and demand that it shall be coined into dollars of 412½ grains Troy of standard silver.

In case of refusal by the mint to receive and coin such bullion, apply to the Supreme Court of the United States for a writ of mandamus, upon the hearing of which the whole subject of constitutional power and duty of congress, and the rights of the people, to access to the mints owned by them can be heard and determined.

"They who would be free must themselves strike the blow."

GEO. G. MERRICK.

Denver, Colo., August 14, 1885.

APPENDIX.

THE DOUBLE STANDARD.

"The double standard of value is a standard based upon the two metals gold and silver by laws which establish a unit of value and account in each metal and declare the weight of pure gold and pure silver respectively, which the unit shall contain, and which also establishes unrestricted coinage for both metals and declare coins of both metals, respectively, which represent the unit and multiples thereof a legal tender in the payment of all debts, public and private, at the option of the debtor."

THE PHILOSOPHY OF THE DOUBLE STANDARD.

"The philosophy of the double standard is that a rise in the value of money and a fall in general prices are the greatest evils which can befall the world, and its object is to prevent, as far as possible, the occurrence of these evils. It takes no precaution against a fall in the value of money, because in the whole history of the human race not a single instance can be pointed out of a fall in the value of either or of both of the metals which has not proved a benefaction to mankind; while, on the other hand, during every period and whenever a rise in the value of metalic money has occurred, it has been attended by financial, industrial, political and social disaster. An increasing value of money and falling prices have been and are more fruitful of human misery than war, pestilence or famine. They have wrought more injustice than all the bad laws that were ever enacted. Under the double standard such evils could rarely if ever occur."—*Report of Silver Commission.*

THE COMMON LAW.

Coke, defining the common law of England in relation to money, says:

"No subject can be enforced to take, in buying or selling or other payment, any money made but only of lawful metal, that is of silver or gold. The money of England is the treasure of England, and nothing is said to be treasure trove but gold and silver. And this is the reason that the law doth give to the King mines of gold or silver thereof to make money, and not any other metal which a subject may have, because thereof money cannot be made."—*Institutes, 574–579.*

END OF
TITLE